

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Wisconsin Central LTD., the Village of Mundelein, the County of Lake, and the State of Illinois, Department of Transportation.

Stipulated Agreement regarding the installation of an Automated Horn System (AHS system) at the crossings of the Company's track with public highways known as Butterfield Road, Illinois Rte. 60 (IL 60), Allanson Road, Hawley Street, Park Street, Maple Street (IL. Rte. 176), Dunbar Road, Winchester Road, and Peterson Road, located in/near the Village of Mundelein, Lake County, Illinois, designated as crossings AAR/DOT 689 698N, milepost 37.37M; AAR/DOT 689 699V, milepost 37.50M; AAR/DOT 689 701U, milepost 38.65M; AAR/DOT 689 703H, milepost 39.80M; AAR/DOT 689 704P, milepost 39.94M; AAR/DOT 689 705W, milepost 40.10M; AAR/DOT 689 707K, milepost 40.85M; AAR/DOT 689 709Y, milepost 41.78M; and AAR/DOT 689 710G, milepost 42.38M, respectively.

T01-0029

FIFTH SUPPLEMENTAL INTERIM ORDER

By the Commission:

On April 25, 2001, the Illinois Commerce Commission ("Commission") entered its Interim Order in this matter that required, among other things, the Wisconsin Central LTD ("WC") to install an Automated Horn System ("AHS") at nine public highway/rail grade crossings in/near the Village of Mundelein ("Village"), Lake County, Illinois. The installations were required to be completed by August 31, 2001. The cost for the automated horn system for the seven crossings on the local road system was ordered paid 100% by the Grade Crossing Protection Fund ("Fund") with the two crossings on the state system being paid 100% by the Illinois Department of Transportation ("IDOT").

On December 5, 2001, a Supplemental Interim Order was entered by the Commission granting to the WC an extension of time to and including December 31, 2001, within which to complete the automated horn system installation at the nine crossing in the Village of Mundelein. The Supplemental Interim Order further revised the estimates of cost for the installation, including the connection to the existing WC warning devices, of the automated horn system. The increase in cost for the installation of the AHS was divided between the Fund and IDOT in the same percentage as contained in the original Interim Order; an increase to the Fund of \$87,061 and to IDOT in the amount of \$29,833.

On March 27, 2002, the Commission entered its Second Supplemental Interim Order granting an additional extension of time to and including May 31, 2002, within which to complete the work as required by the original Interim Order and Supplemental Interim Order, dated April 25, 2001 and December 5, 2001, respectively, applying to the initial installation of the AHS. The WC states that it has installed the AHS at the nine crossings and in early January 2002, began testing of the system in coordination with the Commission's Rail Safety Section. At the direction of Commission staff, adjustments were required to the microphone placement in the horns. WC needed additional time within which to finish the microphone adjustments and conduct follow-up testing prior to activation of the AHS.

On October 23, 2002, the Commission entered its Third Supplemental Interim Order granting the City an additional six (6) month extension of time to and including April 25, 2003, within which to complete the study as required by the original and Supplemental Interim Orders.

On December 11, 2002, the Commission entered Fourth Supplemental Order approving additional payment from the Fund due to the final cost for the project at the nine crossings increased above those amounts as set forth in the original Order and as amended in the Supplemental Interim Order. The Fourth Supplemental Order required the Fund and IDOT to bear the increase in the final cost with the Fund paying an additional \$41,000 and IDOT an additional \$1,000.

On March 20, 2003, the City filed its Supplemental Petition with the Commission requesting a six (6) month extension of time to allow the Village to explore the options available for long-term maintenance of the automated horn system. The Village further states that in accordance with the Commission's Interim Order dated April 25, 2001, the Village has complied with all the requirements as set forth in said Interim Order, specifically monthly reports on the operations of the AHS system have been properly and timely filed with the Railroad Section staff, quarterly meetings of the parties have been held to discuss operations, and an evaluation study on the effectiveness of the AHS system has been completed by the Northwestern University Center for Public Safety. Upon the completion of the evaluation study, the final report was distributed in January, 2003, to the Commission, the Federal Railroad Association, the Volpe National Transportation Systems Center, the Illinois Department of Transportation, and the Villages of Vernon Hills and Libertyville.

The conclusion of the study as stated in its executive summary was, "the wayside horn significantly reduces highway-rail crossing violations". And that, "it accomplishes this task while improving the quality of life for nearby residents." Based upon the results of the study, and the quarterly reports submitted by the Village, the Village is of the opinion that the AHS system has been proven to be an effective and reliable alternative to the need for train crews to sound train horn warnings when approaching public highway/rail grade crossings.

During the study period, the Village as contracted for the maintenance of the AHS system with Railroad Controls, LTD, the developers of the AHS system. The Village pays for the maintenance at all nine locations. Railroad Controls, LTD. maintains the AHS systems with the permission of the Canadian National Railroad under a license agreement. The maintenance contract between the Village and Railroad Controls, LTD and the Canadian National Railroad and Railroad Controls, LTD are set to expire upon the completion of the study period. In order to provide for long-term maintenance arrangements following the expiration of the current contracts, there are a number of options that will need to be considered by the Village. The Village believes that these options cannot be fully explored and the necessary contracts and license agreements executed before the expiration date of the current Interim Order. The Village is requesting the Commission to approve the use of the AHS system and appurtenances as a railroad crossing safety device and permit the AHS installations at the aforementioned nine locations to remain permanently in place once the provision of long-term maintenance has been arranged. The Village requests that the project be extended for an additional six (6) month period of time to allow the Village to explore the options available for long-term maintenance of the AHS system.

Staff has reviewed the Supplemental Petition and has no objection to granting the relief as sought by the Village. Staff has discussed the matter of long-term maintenance with the Village and has made the Village aware that the Commission will only approve a maintenance contractor for the AHS system trained in railroad signal maintenance. In reference to the Village's desire to have the Commission approve the use of the AHS system and appurtenances as a railroad crossing safety device, and permit the AHS installations at the aforementioned nine locations to remain permanently in place once the provision of long-term maintenance has been arranged, staff will make that decision after the maintenance contractor is approved by staff and hired by the Village, and the final rules on whistle blowing are approved and released by the Federal Railroad Association.

The Commission, having given due consideration to the Supplemental Petition and to the entire record herein, finds that:

- 1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- 2) the prefatory portion of this Fifth Supplemental Interim Order is true and correct and is hereby adopted as findings of fact;
- 3) a six (6) month extension of time to and including October 25, 2003, within which to hire a long-term maintainer for the AHS system;

- 4) the Commission's Rail Safety Section Staff has the authority to approve the long-term maintainer hired by the Village; the long-term maintainer must be trained in railroad signal maintenance;
- 5) all other terms and conditions of the original Interim Order, Supplemental Interim Order, Second Supplemental Interim Order, Third Supplemental Interim Order, and Fourth Supplemental Order, dated April 25, 2001, December 5, 2001, March 27, 2002, October 23, 2002, and December 11, 2002, respectively, shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time to and including October 25, 2003, be, and it is hereby, granted to the Village of Mundelein within which to find and hire a long-term maintainer for the AHS system at the nine crossing at/near the Village of Mundelein.

IT IS FURTHER ORDERED that any person or party making a Request For Extension Of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an extension of time that exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing and Information no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions For Supplemental Orders.

IT IS FURTHER ORDERED that Requests For Extension Of Time and Petitions For Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request For Extension Of Time or a Petition For Supplemental Order, the person must notify the Commission's Rail Safety Program administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions For Supplemental Orders and Requests For Extensions of Time, if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that all other terms and conditions of the original Interim Order, Supplemental Interim Order, Second Supplemental Interim Order, Third Supplemental Interim Order, and Fourth Supplemental Interim Order, dated April 25, 2001, December 5, 2001, March 27, 2002, October 23, 2002, and December 11, 2002, respectively, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 23rd day of April, 2003.

Edward C. Husley ₂

Chairman

JUDGE
SECTION CHIEF <i>MES</i>
<i>[Signature]</i> ORDERS SUPERVISOR